

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1019

Introduced by Assembly Member Beall
(Coauthor: Assembly Member Torlakson)
~~(Coauthor: Senator Florez)~~

February 27, 2009

An act to add Division 10.56 (commencing with Section 11972.10) to the Health and Safety Code, relating to alcohol abuse programs, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1019, as amended, Beall. Alcohol-Related Services Program.

Existing law requires the State Department of Alcohol and Drug Programs to perform various functions and duties with respect to the development and implementation of state and local substance abuse treatment programs.

This bill would, in addition, establish the Alcohol-Related Services Program and the Alcohol-Related Services Program Fund and would authorize the State Board of Equalization to assess and collect specified fees from every person who is engaged in business in this state and sells alcoholic beverages for resale, as prescribed. The bill would require the fees to be deposited into the fund and would continuously appropriate those moneys exclusively for the alcohol-related services programs established pursuant to this bill. The bill would authorize the State Department of Alcohol and Drug Programs to establish, or contract or

provide grants for the establishment of, component services under the program.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 10.56 (commencing with Section 11972.10) is added to the Health and Safety Code, to read:

DIVISION 10.56. ALCOHOL-RELATED SERVICES
PROGRAM

11972.10. (a) This act shall be known, and may be cited, as the Alcohol-Related Services Act of 2009.

(b) The Legislature finds and declares all of the following:

(1) The following findings rely, in part, on “The Cost of Alcohol in California,” by Rosen, Miller, and Simon in *Alcoholism: Clinical and Experimental Research*, Vol. 32 No. 11 (2008).

(2) Alcohol-related problems cost Californians an estimated \$38.4 billion annually, including costs for alcohol-related illness and injury, criminal justice, lost productivity, ~~as well as~~ *and* impacts on the welfare system, trauma and emergency care, and the foster care system, among other costs.

(3) Alcohol use drains California’s state and county governments of approximately \$8.3 billion annually in increased health care costs, criminal justice costs, and lost tax bases, while the income to the state in alcohol licensing, fees, excise taxes, and sales taxes is less than \$1 billion annually.

(4) The alcohol industry currently does not pay any fees at the state level to offset or mitigate the enormous costs its products impose on California.

(5) One out of every nine Californians suffers from alcohol addiction.

(6) Alcohol-related accidents are the leading cause of death among teenagers and the cause of many permanently disabling injuries.

(7) Eight out of every 10 felons sent to state prisons are alcohol abusers.

1 (8) Annually, there are over 220,000 admissions to publicly
2 funded alcohol treatment services. Alcohol treatment services
3 reunify families, and decrease criminal justice activities and costs.

4 (9) Alcohol use during pregnancy causes approximately 5,000
5 children to be born in California each year with alcohol-related
6 birth defects.

7 (10) Drinking and driving is the major cause of traffic accidents
8 and fatalities in California each year.

9 (11) The use of alcohol is a major cause of hospital emergency
10 room and trauma care treatment, and greatly contributes to the
11 need for transportation costs such as emergency medical air
12 transportation services and ambulance costs.

13 (12) The use of alcohol is closely associated with mental illness
14 and contributes enormously to the cost of treating the mentally ill.

15 (13) Effective prevention and treatment services for youth
16 increase school attendance and academic performance.

17 (14) California prevention services reach only 4.3 million people
18 annually, but the entire population of the state needs access to
19 prevention services.

20 (15) The use of alcohol is a factor in the majority of child and
21 spousal abuse cases, and is frequently associated with the abuse
22 of the elderly, mentally ill, and mentally retarded residents of
23 long-term care facilities.

24 (16) There are significant benefits of alcohol treatment and
25 recovery programs and they are effective. People who complete
26 treatment find employment and pay taxes, no longer suffer from
27 alcohol problems, and become productive members of their
28 communities.

29 (17) While the staggering cost of alcohol abuse is borne by all
30 Californians, 67 percent of the alcohol sold in California is
31 consumed by only 11 percent of the population.

32 (18) This division is necessary to mitigate the adverse effects
33 of alcohol use.

34 (19) It is the intent of the Legislature to impose a regulatory fee
35 pursuant to this division within the guidelines and limitations
36 approved by the Supreme Court of California in *Sinclair Paint Co.*
37 *v. State Bd. of Equalization* (1997) 15 Cal.4th 866.

38 (20) There is a nexus between the regulatory program of this
39 division and the source of harm, which is the alcohol product, and
40 a rational basis for the assessment of fees to the market. The

1 statutory definitions of alcohol in beer, wine, and distilled spirits
2 categories have been used consistently in police power regulations
3 of the state, and therefore are a rational basis for mitigation fee
4 assessment.

5 (21) It shall be considered a beneficial, regulatory goal of this
6 program to deter future harm by reducing consumption through
7 implementation of a mitigation fee that shall be paid in the stream
8 of commerce of the alcohol industry.

9 (22) It is reasonable to assess mitigation fees at the wholesale
10 level of the stream of commerce, as most alcohol products are
11 made outside of California and the ownership and corporate
12 structure is largely foreign causing practical complications, while
13 retail sales locations are much more numerous than wholesale
14 operations and therefore less efficiently assessed.

15 11972.13. As used in this division, the following terms have
16 the following meanings:

17 (a) "Department" means the State Department of Alcohol and
18 Drug Programs.

19 (b) "ARS Program" means the Alcohol-Related Services
20 Program established pursuant to Section 11972.15.

21 (c) "ARSP Fund" means the Alcohol-Related Services Program
22 Fund established pursuant to Section 11972.20.

23 11972.15. (a) There is hereby established the Alcohol-Related
24 Services Program, to be administered by the State Department of
25 Alcohol and Drug Programs.

26 (b) (1) The ARS Program is established under the police powers
27 of the state as a regulatory and service program to protect the health
28 and safety of California residents who are harmed by the pervasive
29 influence of alcohol production, distribution, sales, and
30 consumption.

31 (2) The component alcohol-related services described in Section
32 11972.25, and authorized under the ARS Program, may mitigate
33 for the past, present, or future harm caused by alcohol products in
34 the stream of commerce in California.

35 (3) The ARS Program may support preexisting or new services.

36 (c) By April 1, 2010, the department shall adopt rules,
37 guidelines, procedures, and regulations necessary or appropriate
38 to carry out the purposes of this division, including guidelines
39 regarding the application process for contracts or grants under
40 component alcohol-related services of the ARS Program. Rules,

1 guidelines, procedures, and regulations may be adopted on an
2 emergency basis if necessary to meet the four-month deadline.
3 The rules, guidelines, and procedures shall be adopted in
4 accordance with the rulemaking provisions of the Administrative
5 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
6 Part 1 of Division 3 of Title 2 of the Government Code) and shall
7 include submissions by state agencies, nonprofit organizations,
8 cities, and counties of evidence of alcohol harm that causes the
9 need and nexus for the component alcohol-related services of the
10 ARS Program. The published rules, guidelines, and procedures
11 shall include supplemental findings to further demonstrate the
12 reasonable relationship between all component alcohol-related
13 services and the harm from the use of alcohol.

14 11972.20. (a) (1) Commencing January 1, 2010, a mitigation
15 fee is hereby imposed on all persons engaged in business in this
16 state, as described in Section 6203, and making sales of alcoholic
17 beverages, where the sale is for the purpose of resale in the regular
18 course of business of the purchaser. The mitigation fee shall be
19 assessed at the first point of sale within the state.

20 (2) The mitigation fee shall be established at the following rates:

21 (A) On all beer, one dollar and seven cents (\$1.07) per gallon
22 and at a proportionate rate for any other quantity.

23 (B) On all still wines containing not more than 14 percent of
24 absolute alcohol by volume, two dollars and fifty-six cents (\$2.56)
25 per wine gallon and at a proportionate rate for any other quantity.

26 (C) On all still wines containing more than 14 percent of
27 absolute alcohol by volume, and on sparkling hard cider, four
28 dollars and twenty-seven cents (\$4.27) per wine gallon and at a
29 proportionate rate for any other quantity.

30 (D) On champagne and sparkling wine, excepting sparkling
31 hard cider, whether naturally or artificially carbonated, two dollars
32 and fifty-six cents (\$2.56) per wine gallon and at a proportionate
33 rate for any other quantity.

34 (E) On all distilled spirits, eight dollars and fifty-three cents
35 (\$8.53) per wine gallon and at a proportionate rate for any other
36 quantity.

37 (3) Annually the State Board of Equalization may authorize an
38 increase in these fees by an amount equal to the increase in the
39 California Consumer Price Index, as recorded by the Department
40 of Industrial Relations, for the most recent year available.

1 (4) The amount of the fee shall be sufficient to defray the costs
2 of the State Board of Equalization and the department in
3 implementing this division, but not in excess of the amount needed
4 to fully implement this division.

5 (b) (1) There is hereby established in the State Treasury the
6 Alcohol-Related Services Program Fund.

7 (2) Except for reimbursement for the State Board of Equalization
8 for expenses incurred in the administration and collection of the
9 fee imposed by this division, all funds collected pursuant to
10 subdivision (a), less refunds, shall be deposited in the ARSP Fund.

11 (3) Funds collected pursuant to this division and deposited in
12 the ARSP Fund shall be continuously appropriated to the
13 department, to be used exclusively by the department for the
14 purposes of funding the ARS Program pursuant to this division.

15 (4) Notwithstanding Section 16305.7 of the Government Code,
16 in addition to any funds collected by, or on behalf of, the State
17 Board of Equalization for deposit in the ARSP Fund, all interest
18 earned by the ARSP Fund shall be deposited in the ARSP Fund.

19 (c) The State Board of Equalization shall collect the mitigation
20 fee pursuant to the Fee Collection Procedures Law (Part 30
21 commencing with Section 55001) of Division 2 of the Revenue
22 and Taxation Code).

23 (d) Any fee imposed pursuant to this division shall be consistent
24 with all applicable legal requirements for imposing fees, including
25 the requirements set forth in *Sinclair Paint Co. v. State Bd. of*
26 *Equalization* (1997) 15 Cal.4th 866.

27 11972.25. (a) Beginning April 1, 2010, the department shall
28 establish, enter into contracts for the establishment or continuation
29 of, or provide grants for the establishment or continuation of,
30 component services under the ARS Program. After the initial April
31 1, 2010, release date, the department shall release grants or
32 contracts on July 1, 2011, and every two years thereafter. No
33 service component shall be funded in excess of the cost of harm
34 caused by alcohol, which, in turn, caused the need for these
35 services.

36 (b) The department shall include five alcohol-related component
37 services in the ARS Program described in subdivision (d). The
38 department shall equally distribute available funding from the
39 ARSP Fund to the five alcohol-related component services in
40 subdivision (d).

1 (c) The department shall use the criteria of need, effectiveness,
2 and best practices as guidance in deciding on guidelines for the
3 service components. The department may, in its biennial update
4 of its guidelines, consider other varieties of services but shall show
5 the need, effectiveness, and best practices that those services bring
6 to the component service area.

7 (d) The ARS Program shall consist of all of the following
8 component services:

9 (1) Treatment and recovery services to mitigate the harm of
10 alcohol use. The types of services to be considered under this
11 paragraph shall include all of the following:

12 (A) Capital expenditures for housing, treatment facilities,
13 recovery facilities, domestic violence shelters, and homeless and
14 low-income facilities for persons recovering from alcohol abuse.

15 (B) Adult and adolescent treatment programs, including a full
16 continuum of active treatment, including cooccurring disorders
17 treatment programs and medication-assisted treatments and the
18 medications involved, inpatient or outpatient detoxification,
19 inpatient services, residential care, intensive outpatient programs,
20 office-based outpatient programs, case management services, and
21 recovery support services, for alcohol abuse treatment provided
22 by a specialty alcohol abuse provider or in a primary care or
23 nonalcohol abuse specialty setting, including, but not limited to,
24 a public health clinic, a federally qualified health center, a school
25 health clinic, or in a criminal justice setting or program by a
26 licensed alcohol abuse-trained medical doctor or registered nurse
27 or state-certified alcohol abuse professional.

28 (C) Workforce education to support updated 2009–11 alcohol
29 abuse licensure and certification requirements, as well as alcohol
30 abuse continuing education requirements and alcohol abuse-related
31 information technology training.

32 (D) Screening, brief intervention, and treatment for adults and
33 adolescents between 12 years of age and 18 years of age in public
34 and private hospital emergency rooms, schools, jails, courts and
35 prisons, public inpatient or residential treatment settings or
36 intensive outpatient or large office-based settings, and large public
37 urban and rural clinics.

38 (E) Infrastructure funds, including funding for capital requests,
39 information technology and electronic health records, and
40 associated equipment and training, including information

1 technology training, data analytic and reporting training,
2 management training, assessment training, evidence-based care
3 training, reimbursement training, and training in quality
4 improvement techniques and programs, including training in
5 meeting performance management standards.

6 (F) Special targeted alcohol abuse funding for the following
7 groups: veterans, including those from the National Guard and
8 reserves who are not included in Veterans Administration funding,
9 pregnant and parenting women, adolescents, alcohol-addicted
10 patients diagnosed with HIV, hepatitis C, or tuberculosis, or any
11 combination of those diagnoses, victims of crime or domestic
12 violence who have a post-traumatic stress disorder or severely
13 mentally impaired diagnosis, and nonalcohol abuse specialty
14 provider training in alcohol abuse identification, screening, brief
15 intervention and treatment, assessment and referrals outside of
16 screening, brief intervention and treatment, including reentry
17 programs for offenders.

18 (G) Expansion of alcohol abuse treatment and expertise in
19 California's rural areas through federally qualified health centers,
20 community health centers, rural hospital emergency rooms and
21 jails, including expanding the use of telemedicine consultations
22 to bring alcohol abuse expertise to rural providers and their
23 patients.

24 (H) Planning and data analysis funding, including intervention
25 evaluation funding and dissemination of results. Planning and data
26 analysis funding shall not include information technology support.

27 (I) Integrated provision of services by certified providers in
28 nontraditional alcohol abuse settings, including mental health
29 settings, inpatient and outpatient specialty medical settings,
30 including obstetrics and gynecology, pediatrics and communicable
31 disease treatment settings, and large-volume primary care settings.

32 (2) Prevention, education, and research programs to prevent the
33 future use or future harm of alcohol products through preventative
34 screening, perinatal screening and care, public education, targeted
35 population education, and research on past harm to better target
36 prevention and treatment. The types of programs to be considered
37 under this paragraph include all of the following:

38 (A) Prevention, screening, and care regarding the health needs
39 of infants, children, and women due to perinatal alcohol use.

1 (B) A new, coordinated statewide program that provides training
2 assistance, public policy assistance, and public awareness
3 campaigns to prevent the use and abuse of alcoholic beverages.
4 The public awareness campaigns shall focus on informing the
5 public, specifically children and young adults, of the potential
6 health risks of alcohol at all levels of consumption. Programs shall
7 include Spanish language and other threshold languages depending
8 on the population of the county involved in the program.

9 (C) Programs to prevent the use of alcoholic beverages among
10 high school age youth.

11 (D) Research on the epidemiology of alcohol-related illness and
12 injury.

13 (E) Research on the harm from alcohol use in California,
14 including the costs and benefits of alcohol use, production,
15 distribution, and retail sales, as background for better planning for
16 treatment and prevention.

17 (3) Emergency medical and trauma care treatment services at
18 the state, city, county, or city and county level that are directly
19 related to alcohol use, including transportation for those visits,
20 emergency, medical, and trauma care services, up to the time the
21 patient is stabilized, provided by physicians in general acute care
22 hospitals that provide basic or comprehensive emergency services.
23 The establishment of monitoring and reporting systems for best
24 practices in billing and service provision shall be considered.

25 (4) Hospitalization and rehabilitation services at the state, city,
26 county, or city and county level for illnesses caused or contributed
27 to by, or related to, alcohol use. The variety of services to be
28 considered under this paragraph shall include:

29 (A) Reimbursement to hospitals and clinics for costs not already
30 covered by private insurance or government programs for illness
31 caused or contributed to by, or related to, alcohol use.

32 (B) Vocational rehabilitation and recovery support services.

33 (C) Pharmaceuticals for treatment and rehabilitation of alcohol
34 addiction, including services to enhance Medicare and Medi-Cal
35 services and formularies, with an emphasis on generic and safe
36 substitutes for patent-protected drugs.

37 (5) Criminal justice and enforcement programs, at the state,
38 city, county, or city and county level. The variety of programs to
39 be considered under this paragraph shall include all of the
40 following:

- 1 (A) Programs to increase and improve the enforcement of laws
- 2 prohibiting driving under the influence of an alcoholic beverage
- 3 and related criminal justice and penal system costs and services.
- 4 (B) Programs to increase and improve the enforcement of
- 5 alcohol abuse-related criminal justice and penal system costs and
- 6 services.
- 7 (C) Law enforcement programs related to prevention of alcohol
- 8 use and abuse and criminal justice.